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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Case No. 5:21-cv-00240-M

TOTAL MERCHANT SERVICES, LLC,

Plaintiff,

v.

TMS NC, INC., and  
CHRISTOPHER COLLINS,

Defendants.

ORDER

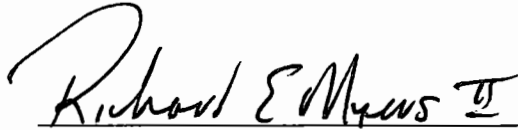
This matter is before the court on Plaintiff's Motion for Contempt [DE 34]. Plaintiff seeks an order finding Defendants in contempt for failing to comply with this court's December 16, 2021 order awarding attorney's fees to the Plaintiff. The court finds Plaintiff's request premature at this stage; the relevant statute, 28 U.S.C. § 1447(c), permits an award of "just" costs and actual expenses, and there has been no finding as to the reasonableness of Plaintiff's requested fees. *See Cranberry Fin., LLC v. Ctr. of Love Mission Church*, No. 5:10-CV-524-FL, 2011 WL 666261, at \*1 (E.D.N.C. Feb. 14, 2011) ("When awarding attorneys' fees under § 1447(c), the court must determine a lodestar amount by multiplying a reasonable hourly rate by the hours reasonably expended.") (citing *Grisson v. The Mills Corp.*, 549 F.3d 313, 320–21 (4th Cir. 2008)).

Accordingly, on or before February 21, 2022, Plaintiff shall file a motion seeking an order finding Plaintiff's fee request reasonable and shall attach to the motion an affidavit or declaration in which counsel shall identify the hourly rate(s) of the attorney(s) involved and all hours expended in challenging the removal of this action (counsel's hours shall not include those in preparing the present motion). Defendants shall have fourteen days after the motion is filed to file any written

objections to the reasonableness of the hourly rate(s) and/or hours expended. Plaintiff may file a reply brief in support of the motion within seven days after any objection is filed.

In light of this order, Plaintiff's Motion for Contempt [DE 34] is DENIED WITHOUT PREJUDICE.

SO ORDERED this 9<sup>th</sup> day of February, 2022.

  
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RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE